

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

11	MICHAEL JOSEPH RHINEHART,)	No. C 11-0812 JSW (PR)
12	Plaintiff,)	ORDER GRANTING MOTION TO
13	v.)	LIFT STAY; GRANTING LEAVE
14	MATTHEW CATE, Director of the)	TO FILE AN AMENDED
15	California Department of Corrections and)	COMPLAINT; INSTRUCTIONS
16	Rehabilitation; A. HEDGPETH, Warden;)	TO CLERK
17	K. HARRINGTON, Warden,)	(Docket Nos. 12, 13)
	Defendants.)	

18 Plaintiff, a California prisoner proceeding pro se, filed this rights action pursuant
19 to 42 U.S.C. § 1983 against three prison officials. Defendants' motion to stay the
20 proceedings was granted pending the outcome of Plaintiff's case on the same claim in the
21 state courts. *See Nakash v. Marciano*, 882 F.2d 1411, 1415 (9th Cir. 1989) ("[A] federal
22 court may stay its proceedings in deference to pending state proceedings"). As ordered
23 by the Court, the parties have indicated that the state court proceedings have been
24 concluded in the state superior and appellate courts, and Plaintiff indicates that he has no
25 intention to appeal to a higher court. Consequently, Plaintiff's motion to lift the stay
26 (docket number 12) is GRANTED.
27

28 Plaintiff has filed a motion for leave to file an amended complaint. In his motion

1 he describes a claim, involving the deprivation of outdoor exercise between May 2010
2 and July 2011, and he states that he would like to “add” the claim. Plaintiff may file an
3 amended complaint, but he may not present his claims in piecemeal fashion. That is to
4 say, any amended complaint must include all of the claims he wishes to present. Leave
5 to file an amended complaint, within **thirty (30) days** from the date this order is filed is
6 GRANTED. The amended complaint must include the caption and civil case number
7 used in this order (Case No. C 11-0812 JSW (PR)) and the words “COURT-ORDERED
8 FIRST AMENDED COMPLAINT” on the first page, and it must be filed on the Court’s
9 form civil rights complaint, a copy of which will be mailed to Plaintiff with this order.

10 Because an amended complaint completely replaces the original complaint, *see*
11 *Ferdik v. Bonzelet*, 963 F.2d 1258, 1262 (9th Cir. 1992), Plaintiff may not incorporate
12 material from the original or amended complaints by reference. He must include all of
13 the claims he wishes to present in the amended complaint; if the claim from his original
14 complaint is not included in the amended complaint, it will be dismissed without further
15 opportunity to raise it. If Plaintiff does not file an amended complaint within the
16 designated time and in accordance with this order, he will not have another opportunity
17 to amend, and this case will proceed based only upon the claim in the original complaint.

19 The Clerk shall reopen the file, and mail a copy of the Court’s form civil rights
20 complaint to Plaintiff along with this order.

21 IT IS SO ORDERED.

22 DATED: September 19, 2011

23 
24 JEFFREY S. WHITE
United States District Judge

1
2 UNITED STATES DISTRICT COURT
3 FOR THE
4 NORTHERN DISTRICT OF CALIFORNIA
5
6

7 MICHAEL JOSEPH RHINEHART,
8 Plaintiff,

Case Number: CV11-00812 JSW

9
10 **CERTIFICATE OF SERVICE**
11
12 v.
13 MATTHEW CATE et al,
14 Defendant.

15 I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District
16 Court, Northern District of California.

17 That on September 19, 2011, I SERVED a true and correct copy(ies) of the attached, by placing
18 said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by
19 depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office
20 delivery receptacle located in the Clerk's office.

21 Michael L. Rhinehart
#:C39412
22 Salinas Valley State Prison
P.O. Box 1050
Soledad, CA 93960

23 Dated: September 19, 2011

Jennifer Ottolini

24 Richard W. Wieking, Clerk
25 By: Jennifer Ottolini, Deputy Clerk